

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
EASTERN DIVISION

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UNITED STATES OF AMERICA, : Case No. 1:19-cr-00035  
: (1:18-mj-02120)  
Plaintiff, :  
: v. : Cleveland, Ohio  
: Monday, July 9, 2018  
DEMETRIUS N. PITTS, : 10:02 a.m.  
: Defendant. :  
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TRANSCRIPT OF PRELIMINARY AND DETENTION HEARING PROCEEDINGS  
BEFORE THE HONORABLE DAVID A. RUIZ  
UNITED STATES MAGISTRATE JUDGE

Court Reporter: Donnalee Cotone, RMR, CRR, CRC  
Realtime Systems Administrator  
United States District Court  
801 West Superior Avenue  
Court Reporters 7-189  
Cleveland, Ohio 44113  
216-357-7078  
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Proceedings recorded by mechanical stenography, transcript produced by computer-aided transcription.

1 APPEARANCES:

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24 Special Agent: **JOHN BREEN, FBI**

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1 MORNING SESSION, MONDAY, JULY 9, 2018

2 (Proceedings commenced at 10:02 a.m.)

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4 DEPUTY CLERK: All rise.

10:06:10 5 THE COURT: Please be seated.

6 DEPUTY CLERK: This United States District  
7 Court for the Northern District of Ohio is now open for the  
8 transaction of business. The Honorable David A. Ruiz  
9 presiding.

10:09:33 10 The Court calls Case Number 1:18-mj-2120, *United  
11 States of America v. Demetrius Pitts.*

12 THE COURT: Good morning. Will counsel for  
13 the United States please identify yourself for the record  
14 and who is present with you at counsel table.

10:09:52 15 MS. BAEPPLER: Yes, Your Honor. Good morning.

16 Michelle Baeppler and Matt Shepherd for the  
17 United States. Seated at the counsel table is Special Agent  
18 John Breen with the FBI.

19 THE COURT: And will counsel for the defense  
10:10:01 20 please identify yourself for the record.

21 MR. FLEMING: Yes, Your Honor. Thank you.

22 Charles Fleming on behalf of the defendant, Mr. Pitts,  
23 who is seated immediately to my left.

24 THE COURT: Good morning, sir.

10:10:13 25 MR. FLEMING: Good morning, Your Honor.

1                   THE COURT: Mr. Pitts, you appeared before me  
2 on July 2nd, 2018, for an initial appearance. At that time,  
3 the Office of the Federal Public Defender was appointed to  
4 represent you. Attorney Timothy Ivey appeared on behalf of  
10:10:26 5 that office at your initial appearance.

6                   Since that time, Attorney Charles Fleming of the  
7 Office of the Federal Public Defender has filed a notice of  
8 appearance replacing attorney Timothy Ivy. And as just  
9 indicated, Attorney Fleming is here to represent.

10:10:40 10       Mr. Pitts, do you understand that Attorney Fleming is  
11 here to represent you?

12                  THE DEFENDANT: Yeah.

13                  THE COURT: Can you please speak louder, sir.

14                  THE DEFENDANT: Yeah.

10:10:48 15       THE COURT: And do you intend to continue with  
16 appointed counsel, Mr. Pitts?

17                  THE DEFENDANT: Yes. Yeah.

18                  THE COURT: Mr. Pitts, on July 3rd your  
19 counsel filed a motion to continue the preliminary hearing  
10:10:56 20 and detention hearing to request additional time for counsel  
21 to prepare for those hearings.

22                  I've reviewed the motion and granted the motion, and  
23 we are here today for a preliminary hearing and detention  
24 hearing.

10:11:07 25       Before I proceed any further, Mr. Pitts, I'm going to

1 ask you an initial question, sir.

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Are you presently under the  
4 influence of any medication, drugs, alcohol, any substance  
10:11:16 5 that would interfere or affect your ability to think or  
6 understand?

7 THE DEFENDANT: What do you mean, like right  
8 now?

9 THE COURT: Right now, sir.

10:11:22 10 THE DEFENDANT: No. I just have a medication  
11 this morning. That's all.

12 THE COURT: Does any of the medication you're  
13 on, sir, affect your ability to think or understand?

14 THE DEFENDANT: Not right now, no. Nothing.  
10:11:31 15 No, sir.

16 THE COURT: That's "no," sir?

17 THE DEFENDANT: No, sir. Not now.

18 THE COURT: Mr. Fleming, do you have any  
19 reason to question either your client's ability to  
10:11:38 20 understand what's going on here today or his competency to  
21 proceed in this matter?

22 MR. FLEMING: Not at this time, Your Honor,  
23 no.

24 THE COURT: Mr. Pitts, you have the right to  
10:11:45 25 remain silent. You are not required to make any statement,

1 and anything you say, sir, may be used against you.

2 If you start to make a statement, you may stop at any  
3 time. You may also consult with your counsel at any time.

4 Do you understand your right to remain silent, sir?

10:11:56 5 THE DEFENDANT: Yes, sir.

6 THE COURT: Counsel has indicated today is  
7 scheduled for a preliminary hearing, a detention hearing.

8 I will hear testimony and argument regarding the  
9 matter of probable cause first and then the matter of  
10:12:09 10 detention.

11 Counsel, I always consider the pretrial services  
12 report, so I ask you to take a moment to look at the  
13 pretrial services report and advise if there's any need for  
14 any corrections, changes, or modifications to the pretrial  
10:12:21 15 services report, and then please advise when you're ready to  
16 proceed.

17 MR. FLEMING: Your Honor, I'm not aware of any  
18 need for any changes at this point.

19 THE COURT: Thank you, Attorney Fleming.

10:12:30 20 AUSA Baeppler?

21 MS. BAEPPLER: No changes, Your Honor.

22 THE COURT: Thank you.

23 AUSA Baeppler, is the Government prepared to proceed?

24 MS. BAEPPLER: Yes, Your Honor. The  
10:12:36 25 Government is prepared to proceed and at this time would

1 call Special Agent Breen to the stand.

2 THE COURT: Okay. Before we do that, AUSA  
3 Baeppler.

4 Mr. Fleming, is the defense prepared to proceed?

10:12:49 5 MR. FLEMING: Yes, Your Honor.

6 Your Honor, I would note for the record that after  
7 speaking with Mr. Pitts, we've signed both a waiver of the  
8 prelim and detention hearings, and we're prepared to move  
9 forward as such.

10:13:03 10 THE COURT: Mr. Pitts, based upon the  
11 representation of your counsel, it's my understanding, sir,  
12 that you have decided, after consulting with your counsel,  
13 to waive your right to a preliminary hearing and to also  
14 waive your right to a detention hearing.

10:13:17 15 Is that correct, sir?

16 THE DEFENDANT: Yeah.

17 THE COURT: Mr. Pitts, I have before me a  
18 document titled Waiver of Preliminary Hearing.

19 Sir, did you review this document, consult with your  
10:13:29 20 attorney, and sign it on today's date?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: Mr. Pitts, do you understand that  
23 if I accept this waiver of preliminary hearing, that a  
24 preliminary hearing will not take place with respect to the  
10:13:40 25 allegations against you, and that the matter will be bound

1 over to the grand jury for further proceedings?

2 THE DEFENDANT: Yeah.

3 THE COURT: And is it, indeed, your attention,

4 Mr. Pitts, to waive your right to a preliminary hearing?

10:14:06 5 THE DEFENDANT: Yeah.

6 THE COURT: Mr. Pitts, I also have before me a  
7 document titled Waiver of Detention Hearing and Order.

8 Sir, did you review this document, consult with your  
9 counsel, and sign it on today's date?

10:14:21 10 THE DEFENDANT: Yes, sir.

11 THE COURT: Mr. Pitts, do you understand that  
12 if I accept this waiver of detention hearing and order, that  
13 a detention hearing will not take place with respect to the  
14 case against you and that you will be remanded to the  
15 custody of the United States Marshal Service pending the  
16 trial in your case?

17 THE DEFENDANT: Okay. Yeah.

18 MR. FLEMING: And, Your Honor, just for the  
19 record --

20 THE COURT: Yes, Mr. Fleming.

21 MR. FLEMING: -- we would -- in regard to the  
22 waiver of detention hearing, we would be waiving,  
23 Your Honor, with the hope of being able to revisit that  
24 issue later if circumstances should change.

25 THE COURT: Mr. Pitts, so the record is clear,

1 then, sir, with respect to the detention hearing that's  
2 scheduled for today, it is indeed your intention, sir, to  
3 waive your detention hearing and not have that hearing,  
4 correct?

10:15:27 5 THE DEFENDANT: Yes, sir.

6 THE COURT: Mr. Pitts, the waiver of detention  
7 hearing and order that you've reviewed and signed indicates  
8 that you reserve the right to raise the issue of detention  
9 at a later date should circumstances change.

10:15:41 10 I want to make sure you understand, Mr. Pitts,  
11 however, that a change in circumstance is not simply you  
12 changing your mind. It must be a material change in  
13 circumstances.

14 Do you understand that, sir?

10:15:51 15 THE DEFENDANT: Wait a minute. Wait a minute.

16 THE COURT: So let me ask the question again,  
17 sir, after you've had an opportunity to consult with your  
18 counsel further.

19 Mr. Pitts, do you understand that if I accept this  
10:16:30 20 waiver of detention hearing and order, that a detention  
21 hearing will not take place with respect to the allegations  
22 against you and that you will be remanded to the custody of  
23 the United States Marshal Service pending trial in your  
24 case?

10:16:41 25 THE DEFENDANT: Yes, sir.

1                   THE COURT: The waiver of detention hearing  
2 and order form, sir, indicates that you reserve the right to  
3 raise the issue of detention hearing at a later date should  
4 your circumstances change.

10:16:51 5                   THE DEFENDANT: Yes, sir.

6                   THE COURT: I want to make sure you  
7 understand, sir, that a change in circumstance, is not  
8 simply you've changed your mind.

9                   You must present the Court with a material change in  
10 circumstances for the Court to move forward with the  
11 detention hearing to determine at that time whether, based  
12 upon the circumstances, the underlying circumstances, the  
13 Court deems it appropriate for you to be detained pending  
14 trial in your case, or if circumstances have changed to such  
15 an extent that the pretrial, at least, would be appropriate.

16                   Do you understand that, sir?

17                   THE DEFENDANT: Yes, sir.

18                   THE COURT: With that said, Mr. Pitts, do you  
19 still intend to waive your right to a detention hearing?

20                   THE DEFENDANT: Yes, sir.

21                   THE COURT: I find that the defendant,  
22 Demetrius Pitts, has knowingly and voluntarily waived his  
23 right to a preliminary hearing, and that he has knowingly  
24 and voluntarily waived his right to a detention hearing.

25                   With respect to the preliminary hearing, based upon

1       the waiver, the Court finds that the matter is bound over to  
2       the grand jury for further proceedings.

3                  With respect to the waiver of detention hearing, the  
4       Court hereby accepts Mr. Pitts' waiver of the detention  
10:17:54 5       hearing and Mr. Pitts will be remanded to the custody of the  
6       United States Marshal Service pending trial in this matter.

7                  AUSA Baeppler, is there anything further for the Court  
8       to consider at this time on behalf of the United States?

9                  MS. BAEPPLER: Nothing from the United States.

10:18:06 10      Thank you.

11                 THE COURT: Mr. Fleming, Attorney Fleming, is  
12       there anything further for the Court to consider on behalf  
13       of Mr. Pitts?

14                 MR. FLEMING: Nothing at this time,  
10:18:14 15      Your Honor. Thank you.

16                 THE COURT: Hearing nothing further, then  
17       Mr. Demetrius Pitts will be remanded to the custody of the  
18       United States Marshal Service pending trial in this case.

19                 And court is adjourned.

10:18:24 20      DEPUTY CLERK: All rise.

21                         - - -

22                         (Proceedings adjourned at 10:18 a.m.)

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1                   **C E R T I F I C A T E**

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3                 I certify that the foregoing is a correct transcript  
4                 from the record of proceedings in the above-entitled matter.

5

6                 */s/ Donnalee Cotone*                   *30th of April, 2020*  
7                 DONNALEE COTONE, RMR, CRR, CRC                   DATE  
                     Realtime Systems Administrator

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